

City of Petaluma, California

Memorandum

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DATE: December 21, 2004

TO: All City Employees

FROM: Pamala Robbins, Human Resources Manager

SUBJECT: Important Notice - Domestic Partnership Law – January 1, 2005

A new law becomes effective January 1, 2005 that requires the City of Petaluma as a public agency to treat domestic partners equivalent to spouses for employee benefits purposes and extend the same nondiscrimination rights to registered domestic partners as are available to married couples.

State Law Definition of Domestic Partner Includes Certain Opposite-Sex Couples

An employee who registers as a domestic partner is entitled to the benefits under the new law. In California, adults who are same-sex and opposite-sex couples are eligible to register as domestic partners with the State. However, opposite sex couples are eligible only if one or both of the partners are over the age of 62.

To be eligible for domestic partnership benefits under state law, the couple must register their domestic partnership with the State. To register, the couple must file a “Declaration of Domestic Partnership” with the Secretary of State and declare that they meet the following eligibility requirements:

1. Both persons have a common residence;
2. Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity;
3. The two persons are not related by blood in a way that would prevent them from being married to each other in the state of California;
4. Both persons are at least 18 years of age;
5. Either of the following:
 - A. Both persons are members of the same sex; OR
 - B. One or both persons is over the age of 62 and meet the eligibility criteria for old-age insurance benefits under Title II of the Social Security Act as defined in 42 U.S.C. § 402(a) or Title XVI of the Social Security Act as defined in 42 U.S.C. § 1381 for aged individuals.

6. Both of the persons are capable of consenting to the domestic partnership.

To establish status as a "State Registered" domestic partner, an employee must provide Human Resources with a copy of his or her "Declaration of Domestic Partnership" with a stamp indicating that it has been filed with the Secretary of State. The forms are available from the California Secretary of State's web site at http://www.ss.ca_gpv/dpreistry/.

City of Petaluma Domestic Partnership Registration

The City of Petaluma has administrative procedures for a Domestic Partnership Registration. This registration provides unmarried couples with a vehicle to formally declare and record their self-described status as domestic partners and to obtain written certification. To establish status as a "City Registered" domestic partner, an employee must provide Human Resources with a copy of his or her "Affidavit of Domestic Partnership Registration." The forms are available from the Petaluma City Clerk's office.

As noted *below*, effective January 1, 2005, the City of Petaluma will provide the same employee benefits to registered domestic partners as they provide to married persons.

Employee Notification Required

An employee must notify the City if they are currently in a registered domestic partnership to ensure that an employee in the registered domestic partnerships receives the same level of benefits as married employees.

Health, Dental, and Vision

In accordance with the new law, the same benefits offered for health, dental and vision benefit coverage that is extended to married persons shall be provided to registered domestic partners. Please note that the City of Petaluma has already been providing these benefits.

Sick leave and Bereavement Leave

An employee in a registered domestic partnership will be provided with sick leave to care for their domestic partner or domestic partner's family member to the same extent that such leave is provided, for care of a sick spouse or the spouse's family member. These benefits are subject to the provisions in an employee's Memorandum of Understanding (MOU). Please refer to the appropriate MOU for coverage terms.

Employees will be allowed to take bereavement leave if the domestic partner or domestic partner's family member to the same extent as such leave is allowed in the event of a spouse's or spouse's family member's death.

California Family Right Act and Family Medical Leave Act

An employee is entitled to California Family Right Act (CFRA) leave and to use sick leave, and/or unpaid leave, under the California Family Rights Act (CFRA), to care for an ill or injured domestic partner.

However, the new law amends California law, not federal law. Benefits under the CFRA are extended to domestic partners, but the Family Medical Leave Act (FMLA) a federal law, does not provide for any right to leave to care for the serious illness of a domestic partner. Thus, an employee who takes CFRA leave to care for a sick domestic partner will also be able to take FMLA leave for another qualifying event (e.g., to care for him/herself or for a parent with a serious health condition), while an employee who takes leave to care for a sick spouse will have to exhaust both CFRA and FMLA leave concurrently. Thus, in some instances, a domestic partner will arguably be able to take up to two 12-week leaves in one year, using CFRA and FMLA leaves non-concurrently, while a spouse will only be eligible to take one 12-week leave in one year under the same circumstances.

City of Petaluma Providers Extend COBRA Rights to Registered Domestic Partners

COBRA is a federal law and not a state law and indicates only “spouses” of covered employees are eligible to continue their health care following a qualifying event. The City of Petaluma through its health plan providers for health, dental and vision does extend COBRA coverage to registered domestic partners. This benefit remains available as long as provided by the health plan providers.

CalPERS Retirement Benefits

CalPERS is updating its Web site to provide detailed benefit and program information for members in domestic partnerships. The CalPERS On-Line Web site will be your best source for information about domestic partnerships and your CalPERS benefits. CalPERS is now developing information on how an existing or new domestic partnership, or the termination of a domestic partnership, can impact current or future CalPERS benefits and what benefits a domestic partner may be entitled. Be sure to regularly visit the CalPERS Web site at www.calpers.ca.gov.

Section 125 Plans DCAP and Medical Flexible Spending Accounts

Neither the state nor federal tax codes have been changed to recognize domestic partners as spouses. Situations where spouses receive tax advantage benefits do not extend to domestic partners. This includes Section 125 plans (DCAP and medical Flexible Spending Accounts).

If the domestic partnership is registered with the City, but not the State, these employees shall be referred to as "City Registered" domestic partners. These employees will be entitled to benefits under City policies, but are not eligible for the benefits provided by State law as described above.

City of Petaluma
Benefits Available to Spouses, State, and City Domestic Partners

Agency	Benefit	Available to Spouses, Dependents	Available to State Domestic Partners	Available to City Domestic Partners
City	Family Sick Leave	Yes	Yes	Yes
	Bereavement	Yes	Yes	Yes
	Medical Cash Back	Yes	No	No
Provider	CalPERS Health	Yes	Yes	N/A
Provider	Dental	Yes	Yes	Yes
Provider	Vision	Yes	Yes	Yes
Provider	COBRA	Yes	Yes	No
Federal	FMLA	Yes	No	No
	Flexible Spending Accounts	Yes	No	No
State	CFRA	Yes	Yes	No

Questions about your City benefits can be directed to Anna Santos at 778-4551